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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,071	02/09/2005	Hannes Floessholzer	AT 020051	4207

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
SEVERSON, RYAN J	
ART UNIT	**PAPER NUMBER**
3731	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/524,071	FLOESSHOLZER ET AL.	
	Examiner	Art Unit	
	Ryan Severson	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 February 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the amendments filed 06 February 2007.

Double Patenting

2. Examiner acknowledges applicants assertion that action will be taken with regard to the double patenting rejection upon allowance of the copending application 10/524,075.

Claim Rejections - 35 USC § 103

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnus et al. (2,423,245) in view of Bosland (3,802,309) for the same reasons set forth in paragraph 5 of the previous office action (paper number 20061027) mailed 06 November 2006.**

6. Furthermore, regarding claim 1, applicant has argued that the application length of Magnus et al. is fixed as shown in figures 2 and 4. However, examiner has not used the embodiment of Magnus et al. shown in figures 2 and 4 to reject applicant's claims. Examiner emphasized figure 5 as showing the device substantially as claimed (see previous office action). In figure 5, Magnus et al. show an elongate application length (at 20) that "causes the hairs to adhere to the tape over a relatively wide area." *See* column 3, line 73 through column 4, line 2. Upon removal of the hair, there will exist a "used" portion of adhesive tape on the distal face of the elongated surface 20. The used portion is then pulled onto the take-up reel to expose fresh adhesive along the same length. However, the device of Magnus et al. is capable of having only a portion (for example, one-half) of the used portion taken up by the take-up reel. In this case, only one-half of the elongate surface would have exposed fresh adhesive tape, and therefore the application length has been varied. Likewise, various other lengths could be used as needed so as to not waste tape. Additionally, this situation is likely to occur when the supply reel reaches its end and there is only limited length of fresh adhesive tape remaining.

7. Likewise, with the combination of references as described in the previous office action, the motor of Bosland is used to turn a reel of tape automatically simply through

use of the control button. This mode of operation is much simpler than as used in Magnus et al. where a hand-turned knob is used to turn the reel. For this reason, it would have been obvious to one of ordinary skill in the art to replace a manually controlled knob with an automatically controlled motor to reduce the amount of work required by the user to operate the device. Cranking on a knob can become strenuous and lead to wrist soreness, and in extreme cases injury such as carpal tunnel syndrome. In this manner, the problem being solved by both the applicant and the reference are the same, in that they achieve an automatic (and thereby easier and more efficient) turning of a reel of adhesive tape.

8. In the rejection of the previous office action, it was explained that by pressing the control button, the motor would then activate and turn the reel. When the button is released, the circuit is broken and the motor stops. If the circuit is broken before the entire portion of used tape is retracted, then a different application length has been achieved. Therefore, as described in the previous office action, the determination means is interpreted as the operation of the button. The longer the button is held, the greater the application length. The shorter the button is held, the shorter the application length.

Response to Arguments

9. Applicant's arguments filed 06 February 2007 have been fully considered but they are not persuasive.

10. With regard to applicants assessment that the application length of Magnus et al. is fixed and can't be varied, see paragraph 6 above.

11. With regard to applicants assertion that the two references can't be combined because Bosland device does not specifically state it is for hair removal, see paragraph 7 above. For two references to be analogous art, they must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the prior art device of Bosland solves a reasonably similar problem to that encountered by applicant (see paragraph 7 above).

12. With regard that Magnus et al. in view of Bosland does not disclose a determination means, see paragraph 8 above.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 9:00 - 5:30.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ryan Severson
April 2, 2007

ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
4/5/07.